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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,176	10/23/2000	Christopher J. Warren	1012-065D1	9544

7590 07/16/2003

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EXAMINER

LEADER, WILLIAM T

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/694,176

Applicant(s)

WARREN ET AL.

Examiner

William T. Leader

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-34 is/are pending in the application.
- 4a) Of the above claim(s) 1- is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 32-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Receipt of the response filed on April 30, 2003, is acknowledged. The amendment included on page 4 of the New Application Transmittal canceling claims 1-29 and 35-37 has been entered. Claims 30-34 are pending.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 30 is rejected under 35 U.S.C. 102(e) as being anticipated by Chow (5,955,028).
4. The Chow patent is directed to an analytical system. The system can detect and/or quantitate an analyte or analytes in a test specimen (column 3, lines 10-15). The analytical system may be used to analyze a variety of samples such as biological, chemical and environmental specimens, and may utilize a variety of detection techniques including potentiometric and amperometric measurement as well as other measurement techniques such as optical detection (column 7, lines 2-32). A base unit 12 includes an array of individually addressable electrode pins in pin socket 20 which provides for both power and signal exchange (column 11, lines

27-29). An adapter 14 electrically connects the base unit with sample substrate 16. The adapter includes an edge connector 40 which includes a number of electrodes 42 which mate with corresponding electrodes 44 on an edge of the sample substrate (column 11, lines 42-46). The sample substrate comprises a plurality of sample and reagent wells 60, each of which is coupled to an electrode 44 in the interface array (column 11, lines 58-60. An output signal resulting from one or more reactions is read by a testing means such as an optical device at reaction region 50 of the sample substrate which is associated with wells 60 and electrodes 44 in each well (column 12, lines 9-11). As previously noted, the apparatus may be used to utilize a variety of detection techniques such as potentiometric and amperometric techniques in addition to optical detection. By employing the same detection technique on all samples, a common property is tested. Thus, each element recited in claim 30 is present in the apparatus of Chow.

5. Claims 30 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Yee (5,672,256).

6. The Yee patent is directed to a multi-electrode biosensor system. The system includes an array of individually addressable electrodes 6i on base 1 which simultaneously generate a plurality of signals. Reference electrode 5 and counter electrode 7 are also provided on base 1 for simultaneously testing each working electrode (column 4, lines 23-32). The system also provides plurality of op amps as

means associated with each of the working electrodes for acquiring a signal from each electrode (column 4, lines 38-43). Each element in claim 30 is present in the apparatus recited in claim 30 is present in the system of Yee. The electrodes and base constitute a printed circuit. The working and counter electrodes form an electrochemical cell. Yee further discloses that a multi-channel potentiostat may be used in the system (column 4, lines 25-27). Thus, each element recited in claim 31 is present in the apparatus of Yee. The materials worked upon by an apparatus does not limit claims to the apparatus itself. See MPEP section 2115.

7. Claims 32-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record does not suggest the specific elements recited in claim 32, or claims 33 and 34 which directly or indirectly depend from claim 32.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William T. Leader whose telephone number is 703-308-2530. The examiner can normally be reached on Mondays-Thursdays and alternate Fridays, 7:30-4:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on 703-308-1146. The fax phone numbers for the organization where this application or proceeding is assigned are

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703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
William Leader  
July 10, 2003

  
ROY KING  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700